

UNITED STATES DEPARTMENT OF AGRICULTURE

Farm Service Agency
Washington, DC 20250

Notice CMA-99

For: Peanut State Offices, Applicable DMA Service County Offices, and Peanut DMA's

Crop Year 2006 Provisions for Peanut Designated Marketing Associations (DMA's)

Approved by: Acting Deputy Administrator, Farm Programs



1 Overview

A Background

According to 7 CFR Part 1421 Subpart E, under CCC's Peanut Marketing Assistance Loan (MAL) Program, peanut MAL's and LDP's are available to producers of peanuts according to the general regulations governing the 2002 through 2007 crop. Peanut producers may obtain peanut MAL's and LDP's from any of the following:

- DMA's
- CMA's
- County Offices.

B Purpose

This notice provides State and County Offices, and existing DMA's, with:

- re-issued policy for DMA application and activation
- updated operating policy unique to DMA's for the 2006 crop year, in addition to general policy for MAL's and LDP's according to 8-LP.

C Contact

Persons with questions about this notice may contact Chris Kyer, PSD, by:

- e-mail at **chris.kyer@wdc.usda.gov**
- telephone at 202-720-7935.

Note: County Offices shall route questions through their State Office.

Disposal Date	Distribution
September 1, 2007	Peanut State Offices; State Offices relay to applicable DMA service County Offices and peanut DMA's

2 General Provisions

A Key Definitions

A DMA is an entity or a subsidiary thereof that performs marketing functions for a marketing association of peanut producers, does not take title to the commodity, and is authorized by CCC to provide and to service CCC peanut MAL's and LDP's for individual producers who have beneficial interest in peanuts. Furthermore, DMA is not controlled either directly or indirectly, by a person or entity that acquires peanuts for processing or crushing through a business involved in buying and selling peanuts or peanut products.

An administrative County Office is the County Office where a producer's FSA records are maintained. See 1-CM, Exhibit 101 for a list of State and county codes.

A DMA service County Office is a County Office designated by CCC to accept, process, and disburse peanut MAL's and LDP's to DMA.

A recording County Office is the only County Office that records eligibility data for producers designated as multi-county producers.

A control County Office is the County Office that controls payment limitation for producers designated as multi-county producers.

B Related FSA Handbooks

FSA handbooks that DMA's must have and be knowledgeable of, related to the peanut MAL and LDP program include the following:

- 1-CM for common provisions about signature requirements, FAXed signatures, powers of attorney, and assignments
- 1-CMA for producer eligibility and payment limitation (PLM) amount instructions
- 8-LP for general MAL and LDP provisions.

C DMA Responsibilities

DMA's shall act as CCC's agent for the following purposes:

- preparing and executing CCC peanut MAL and LDP application documents
- determining that producers and the commodity are eligible for MAL's and LDP's

2 General Provisions (Continued)

C DMA Responsibilities (Continued)

- determining that eligible peanuts are free and clear of all liens by performing lien searches at DMA's expense
- instructing the holder of electronic warehouse receipts (EWR's), if applicable, to notify the EWR provider to amend EWR's to show CCC as the holder
- receiving MAL and LDP documents from a DMA service County Office
- disbursing CCC peanut MAL's and LDP proceeds to individual producers who have beneficial interest in eligible peanuts
- preparing and executing documents for MAL repayments
- collecting repayment funds from producers or buyers and transmitting these funds to CCC
- transmitting documents to render forfeited collateral to CCC
- collecting data for reporting to CCC as required by CCC.

D Further DMA Responsibilities

As part of performing the responsibilities in subparagraph C, DMA's shall:

- perform these services according to the procedures outlined in the applicable peanut program regulations and notices published in the FR, applicable peanut FSA handbooks and amendments thereto, and any notices or instructions issued by DAFP
- make and service CCC peanut MAL's and LDP's, only upon presenting warehouse receipts, unless otherwise directed by CCC
- become familiar with the peanut program as set forth in the applicable regulations, notices published in the FR, FSA peanut handbooks, forms, and other instructions issued about the peanut MAL and LDP program
- attend DMA, peanut MAL, and LDP program training offered by CCC at DMA's expense
- provide sufficient personnel, computer hardware, computer communications systems, and software, as determined necessary by CCC, to administer the peanut MAL and LDP program.

2 General Provisions (Continued)

E Prohibited DMA Activity

DMA's shall **not**:

- pool the producer's peanuts for the purpose of obtaining peanut MAL's or LDP's from CCC
- pool the proceeds obtained from peanut MAL's or LDP's made by CCC
- make farm-stored certified or measured MAL's or LDP's unless authorized by CCC
- take title to any peanuts
- operate the DMA operation under the same entity and tax ID number that is a CCC-approved CMA
- because of race, color, national origin, gender, religion, age, disability, political beliefs, sexual orientation, and marital or family status, deny any producer from participating in MAL or LDP for which they would otherwise be eligible to obtain benefits earned by participating in a MAL or LDP program
- refuse services to producers because DMA was not granted a power of attorney on FSA-211 for executing MAL documents to obtain MAL's, repaying MAL for the producer, obtaining LDP's, or marketing the producer's peanuts
- adopt any scheme or device to circumvent the purpose of the peanuts' MAL and LDP program regulations, the regulation governing DMA's, or its agreement with CCC
- make MAL's or LDP's to producers involved in a bankruptcy proceeding

Note: Advise the producer to contact their administrative County Office.

- make MAL's or LDP's on ineligible peanuts.

2 General Provisions (Continued)

F CCC Authority and Responsibilities

DAFP shall provide the program's general direction and supervision. PSD shall:

- administer the program
- administer requirements in this notice
- receive and approve or disapprove DMA applications
- provide producer eligibility and payment limitation data to DMA that DMA will use to determine whether the producer is an eligible producer or if the producer will exceed allotted payment limitation
- make FSA claim, assignment, debt, and other applicable information available to DMA
- perform administrative reviews of DMA's.

FMD shall:

- hold security that DMA's provide to CCC
- provide CCC's program interest rate to DMA's
- approve and manage the amount of DMA drawdown accounts.

G DMA Service County Office Responsibility

County Offices designated to be DMA service County Offices shall:

- accept and process peanut MAL and LDP applications from DMA's

Note: DMA's will bundle MAL's or LDP's disbursed to individual producers with the same disbursement date. The DMA service County Office will provide a single MAL or LDP to DMA that covers the same MAL's or LDP's represented by multiple receipts from multiple producers.

- hold paper warehouse receipts if EWR's are not available
- disburse MAL or LDP to DMA's drawdown account as directed by FMD
- provide MAL or LDP documents to DMA
- not determine commodity and producer eligibility
- not charge DMA a service fee.

3 Applications for DMA Status

A Application Process

Entities or subsidiaries that provide marketing functions for marketing associations of peanut producers wanting to apply for DMA status shall submit the following documents and information to PSD:

- 2 properly executed CCC-912-P's (Exhibit 1)

Note: Obtain CCC-912-P according to paragraph 9.

- audited financial statement less than 1 year old on the date submitted, including accompanying notes, schedules, or exhibits, certified by a certified public accountant as fairly representing the entity's financial condition

Note: A pro-forma financial statement may be submitted if the entity to perform DMA services is a new entity.

- tax ID number applicable to the entity
- list of employees involved in CCC program activities and a sample of their signature, and a list of current directors, officers, and primary owners
- copy of any applicable incorporating documents or operating agreements
- DMA contact person's:
 - name and title
 - mailing address
 - e-mail address
 - telephone number
 - FAX number
- narrative explaining how the proposed DMA entity or parent entity provides marketing services to a marketing association of peanut producers
- additional financial security, if applicable, according to paragraph 4
- nomination of a County Office to serve as the DMA service County Office

3 Applications for DMA Status (Continued)

A Application Process (Continued)

- certification as follows:

“We certify to the Farm Service Agency that _____ (**insert name of DMA**) a CCC approved Peanut Designated Marketing Association _____ (**insert “is” or “is not”**) controlled, either directly or indirectly, by a person or entity that acquires peanuts for processing or crushing through a business involved in buying and selling peanuts or peanut products.”

- the name, address, and telephone number of the DMA software provider
- amount needed, if any, for a CCC-authorized funds drawdown account
- any additional information requested by PSD.

Note: After submitting documentation, promptly notify the Director, PSD if any changes are made to the submitted documents.

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3 Applications for DMA Status (Continued)

B DMA Approval and Activation Process Summary

DMA's shall obtain approval and are activated according to this table.

Step	Action
1	<p>Potential DMA's shall complete and Fed-Ex application documents to the Director, PSD at the following address.</p> <p>USDA-FSA-Price Support Division 1400 Independence Ave SW Room 4095 Washington DC 20250.</p>
2	<p>PSD shall:</p> <ul style="list-style-type: none">• review application documents• obtain additional information to support the application, if necessary• grant entity approval or disapproval to act as DMA.
3	<p>DMA's shall:</p> <ul style="list-style-type: none">• if not already submitted to PSD, provide PSD the following:<ul style="list-style-type: none">• list of all employees authorized to sign CCC documents for DMA• sample signatures of everyone authorized to sign CCC documents• test files and other documents as required by PSD to demonstrate hardware and software accuracy• copies of DMA computer-generated CCC forms, if any• contact the Kansas City Help Desk at 800-255-2434 (Web Support) to obtain a user ID and password to submit and receive eligibility process files, if not already established for CMA purposes• establish a bank account enabled to receive direct deposit of funds from CCC• if DMA drawdown accounts are authorized by FMD, contact FMD to establish an amount for the account.
4	<p>PSD shall:</p> <ul style="list-style-type: none">• coordinate the establishment of DMA system files on the DMA service County Office computer system• provide DMA training to DMA's and to the DMA service County Office, if time permits.

4 Financial Security Requirements

A Amount of Financial Security Required

DMA's shall provide an:

- initial amount of financial security according to this subparagraph
- amount of financial security as determined by CCC during the annual recertification for DMA status conducted according to paragraph 6.

The financial security shall be in the following 2 parts:

- a current net worth ratio of at least 1:1, current net worth being DMA's current assets minus current liabilities, according to the financial statement provided for:
 - DMA application
 - DMA recertification for CMA status

Note: The current net worth of an existing entity with CMA status may be included in calculating the current net worth of a subsidiary that will have DMA status, according to a consolidated financial statement.

- an additional security type according to subparagraph B equal to \$100,000 or a greater amount as determined by CCC.

B Additional Types of Financial Security

Additional types of financial security shall be any of the following:

- certified or cashier's check payable to CCC

4 Financial Security Requirements (Continued)

B Additional Types of Financial Security (Continued)

- an irrevocable commercial letter of credit in a form acceptable to CCC and meeting the following minimal requirements:
 - contain a default provision similar to the following:

“the amount of the letter of credit is available upon submission of a dated statement issued on the letterhead of the beneficiary and signed by an authorized representative stating that:

 - demand is made for payment under this letter of credit in the amount of \$_____
 - the undersigned representative of the Commodity Credit Corporation (CCC) hereby certifies that _____, a CCC approved Designated Marketing Association, has failed to perform its obligations as required by its agreement with CCC on form CCC-912 and is therefore in default under said agreement.”
 - the term of the letter of credit shall be for at least 1 year
- a performance or surety bond conditioned on DMA fully discharging all of its obligations under this agreement
- other form of security, as CCC may deem appropriate.

C Liability

DMA's:

- shall hold CCC harmless from any claim made against CCC in connection with any MAL or LDP making, MAL servicing, or other activity carried out by DMA, not according to the terms and conditions of the DMA agreement
- are liable to CCC for any losses incurred by CCC as a result of DMA's failure to discharge all of its obligations under this agreement. Payment in the amount of these losses shall:
 - 1st, be made to CCC from the financial security provided by DMA
 - 2nd, be made by DMA if the amount of the loss exceeds the amount of the financial security.

5 Terminating or Suspending the DMA Agreement

A Termination Provision

The DMA agreement may be terminated by:

- either party at any time upon 30 calendar days written notice to the other party
- CCC without providing 30 calendar days notice if CCC determines that DMA has failed to meet the terms and conditions of the DMA agreement.

B Suspension Provision

If CCC determines that DMA is not in compliance with the DMA agreement, CCC may also:

- suspend DMA from making new peanut MAL's and LDP's
- lift the suspension, if DMA can come into compliance with CCC terms and conditions within a time period established by CCC.

Note: If DMA sends a notice of termination to CCC or receives a notice of termination from CCC, DMA shall immediately cease executing MAL or LDP documents.

6 Annual Recertification for DMA Status

A Recertification Requirements

DMA's shall, within 4 months after the end of the DMA FY, provide the following to PSD:

- a current and audited financial statement prepared according to generally accepted accounting principles
- a report of audit or review of the financial statement conducted by an independent Certified Public Accountant

Note: The accountant's report of audit or review shall include the accountant's certifications, assurances, opinions, comments, and notes with respect to these financial statements.

- additional financial security as determined by CCC, if the financial security on file with CCC does not meet current requirements or has expired
- basic DMA data documented on CCC-846-1A and materials, including the following:
 - any changes to DMA name, contact person name, DMA address, telephone number, FAX number, or e-mail addresses
 - a current list of DMA employees authorized to conduct CCC business
 - name, address, and telephone number of DMA software provider
 - all DMA computer-generated CCC forms.

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7 DMA MAL and LDP Processing

A Processing MAL and LDP Requests

DMA's shall process MAL and LDP requests according to this table.

Step	Action
1	<p>Peanut producers:</p> <ul style="list-style-type: none"> may request MAL or LDP at DMA <p>Note: For LDP's, producers should file CCC-633 EZ, page 1 before loss of beneficial interest according to Notice LP 2017.</p> <ul style="list-style-type: none"> shall provide beneficial interest information may provide FSA-211 for DMA to sign documents on their behalf <p>Note: FSA-211 is not approved for a FAXed signature.</p> <ul style="list-style-type: none"> shall provide jurisdictional data on CCC-10 for lien search purposes only <p>Note: See 8-LP for CCC-10 instructions.</p> <ul style="list-style-type: none"> shall deliver to DMA either of the following: <ul style="list-style-type: none"> individual paper warehouse receipts in producer's name EWR numbers, warehouse code, and provider's name.
2	<p>DMA's shall follow procedures to determine whether the producer and commodity are eligible, based on beneficial interest, for MAL's or LDP's. See 8-LP for beneficial interest provisions. If beneficial interest is:</p> <ul style="list-style-type: none"> held by the producer at time of MAL or LDP, the process shall continue lost by the producer before requesting MAL or LDP, the process shall stop.
3	<p>DMA's shall verify producer eligibility according to 1-CMA. If the producer is:</p> <ul style="list-style-type: none"> eligible, the process shall continue ineligible, DMA shall return the documents submitted by the producer in step 1 and stop the MAL or LDP process. <p>DMA's shall:</p> <ul style="list-style-type: none"> determine whether PLM is available for LDP and market gain purposes enter into FSA-211 with the producer, according to paragraph 10, if requested by the producer.

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7 DMA MAL and LDP Processing (Continued)

A Processing MAL and LDP Requests (Continued)

Step	Action	
4	IF the request is...	THEN DMA shall...
	MAL	<ul style="list-style-type: none"> • complete lien search at DMA's expense and obtain lien waivers • if EWR's are applicable, instruct current holder to notify EWR provider to amend EWR to show DMA as holder • complete CCC-678 and other MAL forms • have producer or power of attorney sign MAL document • give or mail CCC-601 and CCC-678 to each producer • instruct EWR provider to make CCC holder of EWR • disburse funds to the producer from DMA's CCC authorized drawdown account or wait for funds from the service County Office. <p>Note: The "date documents received" date for the DMA-prepared MAL shall be the date of disbursement.</p>
	LDP	<ul style="list-style-type: none"> • complete CCC-633 EZ, page 2 • if EWR's are applicable, instruct current holder to notify EWR provider to amend EWR to show peanuts were used to obtain LDP • have producer or power of attorney sign LDP documents • disburse funds to the producer from DMA's CCC authorized drawdown account or wait for funds from the service County Office. <p>Note: The LDP rate applicable to the CCC-633 EZ request is the rate in effect on the date DMA receives the request.</p>
5	Within 3 workdays of disbursement, DMA shall: <ul style="list-style-type: none"> • group MAL's with same: <ul style="list-style-type: none"> • disbursement date • peanut type • warehouse code • State where peanuts were inspected 	

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7 DMA MAL and LDP Processing (Continued)

A Processing MAL and LDP Requests (Continued)

Step	Action
5 Cntd	<ul style="list-style-type: none"> group LDP's with same: <ul style="list-style-type: none"> LDP rate approval date peanut type submit each group to the service County Office by either of the following methods: <ul style="list-style-type: none"> manually with individual paper warehouse receipts or EWR numbers, and EWR provider's name representing bundled MAL's or LDP's create pre-processed files according to Notice CMA 97.
6	<p>The DMA service County Office shall:</p> <ul style="list-style-type: none"> process each DMA-prepared MAL or LDP group for the volume of peanuts on multiple receipts, as a: <ul style="list-style-type: none"> regular automated MAL or LDP if processed on the same day as the day the DMA-prepared MAL or LDP was disbursed manual MAL or LDP with a 90000 series number if processing takes place after the date the DMA-prepared MAL or LDP was disbursed <p>Note: APSS has been modified to allow manual loans to DMA's to be disbursed through checkwriting or EFT.</p> <ul style="list-style-type: none"> waive service fee to DMA not deduct national and State commodity assessment amounts hold MAL paper warehouse receipts or verify that CCC is holder of EWR's as of date of disbursement if CCC was not the holder on or before the date the DMA-prepared MAL was disbursed: <ul style="list-style-type: none"> reject the applicable receipts and do not disburse MAL funds to DMA instruct DMA to correct the applicable DMA-prepared MAL's, and resubmit to the service County Office disburse MAL or LDP funds to DMA as instructed by FMD provide MAL or LDP documents to DMA.

7 DMA MAL and LDP Processing (Continued)

A Processing MAL and LDP Requests (Continued)

Step	Action
7	DMA shall send the producer a maturity notice letter according to 8-LP.
8	DMA's shall process MAL repayments and forfeitures as authorized by the producer, designated agent on CCC-605P, or power of attorney.
9	DMA's shall maintain MAL or LDP documents according to 25-AS.
10	DMA's shall repay MAL at the DMA service County Office with producer or agent funds. If interest is applicable, the repayment amount to the service County Office must match the amount repaid at DMA. The service County Office shall release paper receipts or EWR's.

8 Fees Charged to Producers by DMA

A Fees for Marketing Services

If applicable, DMA's may charge producers a fee for marketing services at a rate to be determined by DMA.

B Fees for Providing MAL's and LDP's

DMA's may charge the producer, who is requesting a CCC peanut MAL or LDP, a fee for preparing MAL or LDP documents and for servicing MAL, at a rate determined by DMA. Service fees shall be:

- deducted from the MAL or LDP amount received by DMA from CCC before distribution to the producer
- assessed at the same rate for each producer requesting a CCC peanut MAL or LDP through the service provided by DMA.

9 CCC Forms

A Policy

DMA's as authorized agents of CCC shall use either:

- current CCC forms or forms approved by CCC to document program services
- of the following options:
 - forms and instructions obtained from CCC by accessing the web site located at www.sc.egov.usda.gov
 - computer-generated forms as described in subparagraph B.

9 CCC Forms (Continued)

B Requests to Computer-Generated Forms

DMA's shall:

- request approval to use computer-generated forms by sending computer-generated copies of the proposed forms to PSD
- **not** use the computer-generated form until written approval has been received from the Director, PSD or designated representative
- submit revised forms to PSD for approval
- submit all DMA-generated forms to PSD as part of the annual DMA status recertification review.

10 Using FSA-211 and FSA-211A

A Policy

For the purpose of signing MAL and LDP documents, producers may delegate power of attorney to another person or to DMA on FSA-211. If a continuation sheet is needed for additional signatures, the FSA-211A is used. DMA's shall:

- refer to 1-CM for general policies about FSA-211's and FSA 211A

Note: For the purposes of this Notice, use of the term FSA-211 includes the FSA-211A

- verify that FSA-211 is notarized or witnessed

Note: A notary public seal on FSA-211 is **not** required when FSA-211 is signed by an individual in the presence of an FSA employee.

- contact the County Office identified in the revocation sentence on FSA-211 to verify that FSA-211 has not been revoked before processing any applicable MAL advance or LDP
- **not** accept any power of attorney forms other than FSA-211.

Persons who have been granted power of attorney by a producer shall deliver FSA-211 to DMA.

10 Using FSA-211 (Continued)

A Policy (Continued)

According to 1-CM, a separate FSA-211 shall be completed for each grantor and each attorney-in-fact. DMA shall not process FSA-211 providing more than 1 grantor or more than 1 attorney-in-fact.

Example: A peanut processor presents FSA-211 to DMA with MAL and LDP authority from a producer and requests DMA to act on the producer's behalf to sign MAL or LDP documents for the producer. In this case, DMA **cannot** enter into FSA-211 with the peanut buyer. Either the peanut processor must sign MAL or LDP documents for the producer or DMA must enter into a separate FSA-211 with the producer to act on the producer's behalf.

FSA-211 used to delegate DMA with a producer's power of attorney shall include an attachment with the following statement.

“(The producer) hereby acknowledges that (the DMA) is an agent of the Commodity Credit Corporation for the purpose of performing certain services requisite to the making and servicing of Commodity Credit Corporation peanuts MAL's and LDP's to eligible producers of eligible peanuts and agrees to permit (the DMA) to act as agent for both (the producer) and the Commodity Credit Corporation. (The DMA) shall disclose to (the producer) all facts which (the DMA) knows or should know would reasonably affect the judgment of (the producer) in permitting (the DMA) to act as agent for both (the producer) and the Commodity Credit Corporation.”

B FSA-211 Used With CCC-605P

Producers:

- may designate:
 - DMA or a peanut buyer to be an agent on FSA-211, to act on their behalf to execute CCC-605P if FSA-211 **specifically** grants the authority to execute CCC-605P
 - peanut agents on FSA-211 to redeem MAL's without CCC-605P if authority is granted for all MAL and LDP transactions
- must completely understand that designating an agent to execute CCC-605P grants that agent the authority to further delegate authority to another agent.

An agent designated on FSA-211 cannot execute a new FSA-211 to further delegate authority to another agent.

10 Using FSA-211 (Continued)

B FSA-211 Used With CCC-605P (Continued)

DMA's shall:

- accept CCC-605P if FSA-211 specifically grants authority to designate another agent on CCC-605P
- accept MAL repayments from an agent if FSA-211 grants agent authority to conduct all MAL and LDP transactions.

C Completing FSA-211

Complete FSA-211's to delegate power of attorney to DMA's according to this table.

Item	Instructions
1 through 4	Enter DMA's name, address, county, and State.
5	Enter the producer's name.
Section A	Check box for item: <ul style="list-style-type: none">• 8• 11 and ENTER "Peanuts".
Section B	Check the box for item 6, and if FSA-211 will be used to execute CCC-605P, check the box for item 7 and ENTER "CCC-605P".
6 A through C	Individual producers shall sign and enter the date and Social Security number.
7 A through D	Corporations shall sign and enter the title, date, and ID number.
8 A through C	The FSA employee witnessing shall sign and enter the date and position title.
9 A through C	Notary public shall sign and enter the seal and State and county of commission. Note: Notarization is required when FSA-211 is not signed by an individual in the presence of an FSA employee.
10 A through E	Enter place signed, State, and date executed.

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10 Using FSA-211 (Continued)

D Example of FSA-211

This is an example of a properly completed FSA-211.

This form is available electronically. FSA-211 (07-26-05)		Form Approved - OMB No. 0560-0190	
U. S. DEPARTMENT OF AGRICULTURE Farm Service Agency - Commodity Credit Corporation - Federal Crop Insurance Corporation			
POWER OF ATTORNEY			
THE UNDERSIGNED does hereby appoint (1) <u>Acme DMA</u> , of (2) <u>2 Main St.</u> (3) <u>Franklin</u> County, State of (4) <u>Georgia</u> , the attorney-in-fact to act for (5) <u>Frank S. Smith</u> in connection with Farm Service Agency and Commodity Credit Corporation program number(s) checked below. Checking any of the FSA or CCC programs does not have any impact as to the FCIC transactions checked below:			
A. FSA and CCC PROGRAMS (Check applicable program numbers)		B. TRANSACTIONS for FSA and CCC PROGRAMS (Check applicable program numbers)	
<input type="checkbox"/> 1. All current programs. <input type="checkbox"/> 2. All current and all future programs. <input type="checkbox"/> 3. Direct and Counter-Cyclical Program except 2002 peanuts covered by Item A4. <input type="checkbox"/> 4. 2002 Direct and Counter-Cyclical Peanut Program. <input type="checkbox"/> 5. Peanut Quota Buy-Out Program.	<input type="checkbox"/> 6. Noninsured Crop Disaster Assistance Program. <input type="checkbox"/> 7. Tobacco programs. <input checked="" type="checkbox"/> 8. Marketing Assistance Loans and Loan Deficiency Payments. <input type="checkbox"/> 9. Conservation programs. <input type="checkbox"/> 10. Milk Income Loss Contract Program. <input checked="" type="checkbox"/> 11. Other (Specify) <u>Peanuts</u>	<input type="checkbox"/> 1. All actions. <input type="checkbox"/> 2. Signing applications, agreements, and contracts. <input type="checkbox"/> 3. Election of bases and yields except peanut designation covered by Item B4. <input type="checkbox"/> 4. Designation of peanut historical base and yield to a farm.	<input type="checkbox"/> 5. Making reports. <input checked="" type="checkbox"/> 6. Conducting all marketing assistance loan and LDP transactions. <input checked="" type="checkbox"/> 7. Other (Specify) <u>CCC-605P</u>
This form may also be used to grant authority to an attorney-in-fact to act on the grantor's behalf with respect to certain FCIC programs and crops. Checking any of the FCIC transactions does not have any impact as to the FSA or CCC transactions checked above:			
C. FCIC CROPS (Enter "All" or specify each crop and year)		D. TRANSACTION NUMBERS USED BY FCIC (Check applicable numbers)	
1. _____ 2. _____ 3. _____ 4. _____	<input type="checkbox"/> 1. All actions. <input type="checkbox"/> 2. Making application for insurance. <input type="checkbox"/> 3. Reporting crop acreage and notice of damage reports. <input type="checkbox"/> 4. Making claim for indemnity. <input type="checkbox"/> 5. Making contract changes. <input type="checkbox"/> 6. Other (Specify) _____		
This Power of Attorney is valid in all counties in the United States unless otherwise noted. This power of attorney shall remain in full force and effect until (1) written notice of its revocation has been duly served upon FSA; (2) death of the undersigned grantor; or (3) incompetence or incapacitation of the undersigned grantor. The undersigned grantor shall provide separate written notice of revocation to the applicable crop insurance agent. This power of attorney shall not be effective until properly executed and served to a FSA Service Center.			
AUTHORIZED SIGNATURES:			
6A. Signature(s) of Grantor(s) (Individual) <u>/s/ Frank S. Smith</u>	B. Date (MM-DD-YYYY) <u>08-15-03</u>	C. Social Security Number <u>11-00-0000</u>	D. For Grantors Signature Continuation, check here if FSA-211A is attached. <input type="checkbox"/>
7A. Signature of Grantor (Partnership, Corporation, Trust, etc.)	B. Title	C. Date (MM-DD-YYYY)	D. Identification No. of Entity
8A. Witness Signature (FSA Employee Only) <u>/s/ Dan Rivers</u>	B. Date (MM-DD-YYYY) <u>08-15-03</u>	C. Official Position <u>Program Technician</u>	
9. Notary Public (this form shall be acknowledged by a Notary Public unless witnessed by a FSA employee or a corporate seal of grantor is affixed). Signature (a) _____ State of (b) _____ County of (c) _____			
10. This power of attorney was served to (a) <u>Franklin</u> County FSA Office, (b) State of <u>Georgia</u> and became effective this (c) <u>15</u> day of (d) <u>August</u> , (e) <u>2003</u> .			
NOTE: The following statement is made in accordance with the Privacy Act of 1974 (5 USC 552a) and the Paperwork Reduction Act of 1995, as amended. The authority for requesting the following information is The Food Security and Rural Investment Act of 2002 (Pub. L. 107-171) and 7 CFR Part 718. The information will be used to legally document your opinion to appointing an attorney-in-fact, identify the person and authorities granted to the appointee. Furnishing the requested information is voluntary; however, failure to furnish the requested information will result in the individual or entity not being able to act as your attorney-in-fact. This information may be provided to other agencies, IRS, Department of Justice or other State and Federal Law enforcement agencies, and in response to a court magistrate or administrative tribunal. The provisions of criminal and civil fraud statutes, including 18 USC 286, 287, 371, 651, 1001; 15 USC 714m; and 31 USC 3729, may be applicable to the information provided. According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0560-0190. The time required to complete this information collection is estimated to average 15 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. RETURN THIS COMPLETED FORM TO YOUR COUNTY FSA OFFICE. The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or part of an individual's income is derived from any public assistance program. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD). To file a complaint of discrimination, write to USDA, Director, Office of Civil Rights, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410, or call (800) 795-3272 (voice) or (202) 720-6382 (TDD). USDA is an equal opportunity provider and employer.			

10 Using FSA-211 (Continued)

E Distributing FSA-211

DMA's preparing FSA-211 shall distribute FSA-211 as follows:

- original to DMA
- 1st copy to producer granting power of attorney.

11 Liens and Lien Waivers

A Lien Search Policy

DMA's shall:

- follow lien policies in 8-LP and Notice LP-2027
- determine whether a lien exists by performing or obtaining a lien search:
 - for **all** peanuts to be pledged for each MAL
 - at the appropriate recording official's office or a centralized filing facility
 - in the appropriate uniform commercial code jurisdiction according to data on CCC-10 filed by the producer
 - at DMA's expense
- document the results of the lien search on FSA 440-13 or a similar form
- file the results in the applicable MAL folder.

11 Liens and Lien Waivers (Continued)

B Obtaining CCC-679

DMA's shall:

- if liens exist, obtain lienholder signatures on CCC-679 to release a particular lien on peanuts pledged for MAL
- obtain CCC-679 for each lienholder
- **not** disburse MAL if an offset is applicable, unless the lienholder agrees to the offset by checking CCC-679, item 8, line 1 or 3
- require CCC-679's for all MAL requests received from FSA FLP borrowers
- **not** obtain lien waivers for liens that are **not** recorded unless actual notice of the existing lien is provided to DMA by the lienholder in person or in writing.

Note: Examples of unrecorded liens include landlord liens, sheller's possessory liens, and harvesters' liens.

11 Liens and Lien Waivers (Continued)

C Completing CCC-679

DMA's shall complete:

- CCC-679 according to this table
- item 8(3), if applicable, according to subparagraph D.

Item	Instructions
1	Enter the producer's name and address.
2	Enter the crop year.
3	ENTER "Peanuts".
4	Enter the farm number or numbers, as applicable. If liens are waived on all farms, ENTER "All".
5	Enter the State and county codes for DMA.
6	<p>If the waiver releases:</p> <ul style="list-style-type: none"> • all of the commodity covered by CCC-679, ENTER "All" and the commodity • just a quantity of the commodity being pledged for MAL, enter applicable quantity, peanuts, and farm number.
7	Enter the State and county where the peanuts were produced.
8	<p>Lienholder shall check the applicable box.</p> <p>Note: See subparagraph D for additional instructions.</p>
9	Enter estimated net disbursement amount, if applicable.
10	Enter the lienholder's or authorized agent's name and address.
11 A and B	Lienholder shall sign and date.

11 Liens and Lien Waivers (Continued)

D Completing CCC-679, Item 8(3)

DMA's shall complete CCC-679, item 8(3) according to this table.

IF...	AND...	THEN...
an administrative offset does not apply		ENTER "none" on CCC-679, item 8(3)(a).
an administrative offset does apply		enter the offset amount as of the date CCC-679 is prepared on CCC-679, item 8(3)(a).
	the lienholder is any of the following: <ul style="list-style-type: none"> • United States of America, acting through USDA or FSA • USDA • USDA, formerly FmHA • FSA 	<ul style="list-style-type: none"> • enter the offset amount as of the date CCC-679 is prepared on CCC-679, item 8(3)(a) • calculate the estimated net disbursement amount in item 9 as follows: <ul style="list-style-type: none"> • multiply national loan rate for the applicable type of peanuts times the quantity for MAL • deduct assessments, fees, and administrative offsets, as applicable • enter in item 9 the "estimated net disbursement amount" before CCC-679 is given to an FSA FLP representative.
a statement of charges, according to 8-LP, paragraph 450, signed by the producer, accompanies the warehouse receipt		do either of the following: <ul style="list-style-type: none"> • in item 8 (3) (a) add the total dollar amount of the charges to any other offset amounts • modify the statement in item 8 (3) (c) to add language that states whose charges are being offset without specifying the type or amount of the charges.

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11 Liens and Lien Waivers (Continued)

E Example of CCC-679

This is an example of a properly completed CCC-679.

This form is available electronically. CCC-679 (06-20-03)		U.S. DEPARTMENT OF AGRICULTURE Commodity Credit Corporation			Form Approved - OMB No. 0560-0087
LIEN WAIVER					
1. NAME AND ADDRESS OF PRODUCER (Include Zip Code): John W. Smith 100 East Road Camilla, GA 01242	2. CROP YR. 2005	3. COMMODITY Peanuts	4. FARM NO. 875	5. ST. & CO. CODE 13-810	
6. QUANTITY COVERED All Peanuts		7. STATE AND COUNTY WHERE PRODUCED GA, McIntosh			
<p>NOTE The following statement is made in accordance with the Privacy Act of 1974 (5 USC 552a) and the Paperwork Reduction Act of 1995, as amended. The authority for requesting the following information is the Federal Agriculture Improvement and Reform Act of 1996 and the Commodity Credit Corporation Charter Act, as amended and regulations at 7 CFR Parts 1421, 1427, and 1435. The information will be used to determine to whom program benefits will be paid. Furnishing the requested information is voluntary; however, failure to furnish the correct and complete information will result in a determination of ineligibility for program benefits. This information may be provided to other agencies, IRS, Department of Justice, or other State and Federal Law enforcement agencies, and in response to a court magistrate or administrative tribunal. The provisions of criminal and civil fraud statutes, including 18 USC 286, 287, 371, 641, 651, 1001; 15 USC 714m; and 31 USC 3729, may be applicable to the information provided.</p> <p>According to the Paperwork Reduction Act of 1995, an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0560-0087. The time required to complete this information collection is estimated to average 6 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. RETURN THIS COMPLETED FORM TO YOUR COUNTY FSA OFFICE.</p>					
8. The undersigned is the holder of a lien on the commodity identified above. In order for the producer identified above to pledge such commodity as collateral for a Commodity Credit Corporation ("CCC") loan, with respect to CCC only, the undersigned waives all interest in, and title to, such commodity. The undersigned agrees that the proceeds of the loan shall be disbursed (lienholder must check one of the following): <div style="margin-top: 10px;"> (1) <input checked="" type="checkbox"/> To the producer. (2) <input type="checkbox"/> Jointly to the producer and the undersigned lienholder. (3) <input type="checkbox"/> Jointly to the producer and the undersigned lienholder, less \$ (a) <u>500</u> administrative offset as of (b) <u>10/1/2006</u> and charges due (c) <u>Custom Harvesting Inc.</u> (DATE) </div>					
9. If administrative offsets are deducted from the loan proceeds enter estimated net disbursement amount: \$ _____					
10. NAME AND ADDRESS OF LIENHOLDER OR AUTHORIZED AGENT Plains Bank 10 East Main St. Plains, GA 08210					
11A. SIGNATURE			11B. DATE (MM-DD-YYYY)		

The U.S. Department of Agriculture (USDA) prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or part of an individual's income is derived from any public assistance program. (Not all prohibited bases apply to all programs.) Persons with disabilities who require alternative means for communication of program information (Braille, large print, audiotape, etc.) should contact USDA's TARGET Center at (202) 720-2600 (voice and TDD). To file a complaint of discrimination, write to USDA, Director, Office of Civil Rights, 1400 Independence Avenue, S.W., Washington, D.C. 20250-9410, or call (800) 795-3272 (voice) or (202) 720-6382 (TDD). USDA is an equal opportunity provider and employer.

11 Liens and Lien Waivers (Continued)

F Distributing CCC-679

DMA's shall distribute CCC-679 as follows:

- file original in a locked, fireproof file
- send 1 copy to the producer
- send 1 copy to the lienholder.

12 Offsets, Assignments, and Deductions

A Reference for Offsets and Assignments

For CCC offsets and assignments, DMA's shall follow the policy applicable to LSA's in 22-CN, Part 6.

B National Peanut Board and State Assessment Deductions

Deductions as applicable from MAL proceeds for National Peanut Board and authorized State assessments shall be paid directly by DMA's according to Notice LP-2039. DMA service County Offices shall not make any such deductions from loans disbursed to DMA's.

C Deductions for DAFP Authorized Charges

For DAFP authorized deductions from MAL gross loan amounts, DMA's shall follow policy in Notice LP-2039. DMA's shall:

- for loans secured with EWR's or paper receipts, accept the DAFP authorized charges agreed to by producers on a written statement of charges signed by the producer and submitted to the DMA
- not accept charges showing on the EWR in lieu of a written statement signed by the producer
- obtain lienholders approval of these deductions on CCC-679 according to paragraph 11.

13 MAL Repayment Processing

A Repayment Types and General Processing

Producers or their agents may repay MAL's to DMA's at principal plus interest or when applicable, at rates less than the loan rate as a marketing loan repayment or as a commodity certificate repayment transaction according to 8-LP. Furthermore, DMA's shall:

- for lock-in of repayment rates:
 - accept and administer requests from producers on CCC-697 according to 8-LP, paragraph 952
 - during periods of lock-in activity, submit a DMA producer daily lock-in report (1 sheet for each applicable FSA loan number) to the service County Office, by close of business, that contains the following elements:
 - DMA State and DMA code
 - crop year
 - applicable FSA loan number
 - maturity date
 - lock-in expiration date
 - outstanding DMA loan quantity
 - quantity to lock-in
 - lock-in repayment rate
 - EWR or paper receipt numbers
 - repayment effective date
 - date requested
 - approval date
 - do not provide the service County Office with copies of CCC-697.
- for commodity certificate exchanges:
 - accept requests from producers on CCC-694-2 according to 8-LP, Section 8
 - maintain a copy of the applicable CCC-694-2 in the producer's loan folder
 - do **not** provide the service County Office with copies of CCC-694-2
 - collect the correct amount of funds from the producer or agent for the repayment transaction
 - immediately purchase commodity certificates at the service County Office and repay the underlying loan to the DMA at the service County Office.

13 MAL Repayment Processing (Continued)

A Repayment Types and General Processing (Continued)

- for all repayment transaction types:
 - collect the correct amount of funds from the producer or agent for the applicable repayment transaction
 - create and provide a repayment summary report (1 sheet for each receipt number) to the service County Office containing the following elements:
 - DMA State and DMA code
 - DMA loan number
 - FSA loan number
 - EWR or paper receipt numbers
 - type of peanut
 - total tons
 - repayment date
 - date documents received
 - repayment rate per ton
 - type of repayment
- repay the underlying CCC loan as applicable at the service County Office.

14 DMA Collection of Charges Due on Forfeited Loans

A Determining Charges Due

When loans are forfeited and after warehouse charges are paid by KCCO, DMA's shall:

- determine if a DMA producer shall be billed for storage from the date the peanuts were put into storage to the day before the "date documents received" date
- calculate amounts due by producers according to Notice LP-2039. Do **not** include in charges.

Note: DMA's may also use receivable data created by DMA service County Offices to arrive at amounts owed by DMA producers.

B Collecting Charges Due From Producer

After computing charges due to be paid by DMA producers, DMA's shall:

- send applicable producers a notification letter for charges due according to subparagraph E and file a copy in the producers loan folder
- if the amount due remains unpaid 30 calendar days after the date of the notification letter, contact the producer's **administrative** County Office to request that a receivable be established and provide a case file that contains copies of:
 - calculation of amounts due
 - DMA notification letter
 - documentation of any collection activity
- forward any funds collected by DMA to the applicable administrative County Office **after** the debt has been referred.

14 DMA Collection of Charges Due on Forfeited Loans (Continued)

C DMA Service County Office Action

DMA service County Offices shall:

- assist DMA's with calculations of amounts owed by individual DMA producers because of forfeited loans by providing a copy of APSS Screen PFA12000 showing the amount of storage due on each warehouse receipt when processing a peanut loan forfeiture
- accept DMA payments as a result of DMA collections towards receivables created according to Notice LP-1998 until DMA producer debts are transferred to administrative County Offices
- cease applying DMA collections to receivables when notified by DMA that DMA is transferring DMA producer debts to administrative County Offices
- after all DMA collections have taken place, allow the automatic creation of a claim for unpaid amounts
- immediately withdraw claims against DMA's.

Note: Document that the reason for withdrawal is DMA referral of unpaid amounts to administrative County Offices according to this notice.

D DMA Producer Administrative County Office Action

For debts transferred from DMA's according to this notice, administrative County Offices shall:

- begin collection actions according to 58-FI and 67-FI
- send another notification letter even though DMA has already sent 1 to the producer.
- create claims using:
 - program code "XXPNUTSTGCRS", replacing XX with the applicable crop year
 - reason code "10424".

14 DMA Collection of Charges Due on Forfeited Loans (Continued)

E Notification Letter for Debt Collection

Following is an example of the initial notification letter for charges due.

Dear Producer:

It has been determined that you owe CCC \$_____. The amount due is a result of the forfeiture of your peanut loan number _____.

You were notified of this loan's maturity date and of the options available to you. By having decided to forfeit the loan collateral in satisfaction of the loan, you agreed to pay to CCC at rates that are specified in the storage agreement between the warehouse and CCC, all warehouse storage charges that accrued **before** the date all documents required from you for the loan were provided to the DMA

You may contact this office to review records related to the determination of this debt or to receive an explanation of the debt. You may obtain a copy of the records subject to copying charges.

You have 30 calendar days from the date of this letter to seek an informal review and request reconsideration of the determination of the debt. In requesting the reconsideration, provide a written explanation of the basis of your disagreement with the determination and provide documentation to support your position.

You may pay your debt by check payable to (**insert DMA name**) and mail the check to this office at the above address. Please contact this office at _____ if you have any questions. We will work with you to resolve this matter.

If this debt is not resolved, CCC reserves the right to use all additional actions available to recover the debt. The debt may be collected by internal administrative offset from any CCC or FSA payment that may be due to you. Additional actions that may be taken to recover the debt include the assessment of late payment interest, administrative costs, and penalties; administrative wage garnishment; reporting the debt to credit bureaus; referring the debt to private collection agencies and debt collection centers; collecting the debt by offset of qualified disbursements and refunds, including federal tax refunds; referring the debt to litigation (if collection administratively is unsuccessful); and reporting the debt to the Internal Revenue Service if the debt, or any portion of the debt, is discharged. Once your debt is more than 180 days delinquent, we are required to refer the debt to the Department of Treasury for collection.

Our records do not reflect that you have filed for bankruptcy protection under Title II of the United States Code. If you have filed bankruptcy, please notify us so that we may update our records and proceed to resolve this debt in accordance with bankruptcy procedures.

Sincerely,

DMA Official
_____ DMA Office

15 DMA Collection of Amounts Due From Loan and LDP Violations

A DMA Producer Violations

DMA producers are subject to penalties for violating the terms and conditions applicable to MAL's and LDP's. DMA's shall follow policy for violations according to 8-LP, Part 6. When violations are discovered or DMA's are notified by administrative County Offices of violations according to 1-CMA, paragraphs 552 through 554 DMA's shall:

- send the producer a notification letter according to 8-LP, subparagraph 602 B
- if necessary, seek advice from the service County Office to calculate amounts due that will include:
 - interest and liquidated damages
 - in charges and storage credit
- collect amounts due from producers
- repay the underlying receivable created at the service County Office

If producers request waiver of interest or liquidated damages, DMA's shall forward a waiver request to PSD for consideration.

For amounts that remain unpaid 30 calendar days (not including the time a waiver request is under consideration) after the date of the notification letter, DMA's shall:

- contact the producer's **administrative** County Office to request that a receivable be established and provide a case file that contains copies of:
 - calculation of amounts due
 - DMA notification letter
 - documentation of any collection activity
- forward any funds collected by DMA to the applicable administrative County Office **after** the debt has been referred.

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15 DMA Collection of Amounts Due From Loan and LDP Violations (Continued)

B DMA Service County Office Action

DMA service County Offices shall:

- accept DMA payments as a result of DMA collections towards receivables created
- cease applying DMA collections to receivables when notified by DMA that DMA is transferring DMA producer debts to administrative County Offices
- after all DMA collections have taken place, allow the automatic creation of a claim for unpaid amounts and immediately withdraw claims against DMA's.

Note: Document that the reason for withdrawal is DMA referral of unpaid amounts to administrative County Offices according to this notice.

C DMA Producer Administrative County Office Action

For debts transferred from DMA's according to this notice, administrative County Offices shall:

- begin collection actions according to 58-FI and 67-FI
- send another notification letter even though DMA has already sent 1 to the producer.

CCC-912-P

This is an example of CCC-912-P.

CCC-912-P
(08-19-03)

U.S. DEPARTMENT OF AGRICULTURE
Commodity Credit Corporation

**AGREEMENT FOR DESIGNATED MARKETING ASSOCIATION
TERMS AND CONDITIONS FOR PEANUTS**

NOTE: The authority for collecting the following information is Pub. L. 107-171. This authority allows for the collection of information without prior OMB approval mandated by the Paperwork Reduction Act of 1995. The time required to complete this information collection is estimated to average 30 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The following statement is made in accordance with the Privacy Act of 1974 (5 USC 552a). The authority for requesting the following information is Pub. L. 107-171. The information will be used to evaluate if the applicant is eligible for DMA status. Furnishing the requested information is voluntary. Failure to furnish the requested information will result in disapproval of DMA status. This information may be provided to other agencies, IRS, Department of Justice, or other State and Federal law enforcement agencies, and in response to a court magistrate or administrative tribunal. The provisions of criminal and civil fraud statutes, including 18 USC 286, 287, 371, 641, 651, 1001; 15 USC 714m; and 31 USC 3729, may be applicable to the information provided. **RETURN COMPLETED FORMS TO THE DIRECTOR, PRICE SUPPORT DIVISION, USDA, FSA, STOP 0512, WASHINGTON, D.C. 20250.**

1. Date of Agreement: (Day, Month, Year)	2. Name of Designated Marketing Association
3. Street Address	4. City, State, Zip Code
5. Phone Number (Area Code):	6. State and DMA Code: (Assigned by FSA)

7. Purpose:

- A. Under CCC's peanut marketing assistance loan program, peanut marketing assistance loans (MAL's) and loan deficiency payments (LDP's) are available to producers of peanuts in accordance with the general regulations governing the 2002 through 2007 crop, codified at 7 CFR Part 1421, and any amendments thereto (hereinafter referred to as "the regulations").
- B. According to the regulations at 7 CFR Part 1421, peanut producers may obtain peanut MAL's from a Designated Marketing Association (DMA).
- C. CCC desires to permit a DMA to act as agent for CCC in performing certain MAL making and servicing functions in accordance with CCC's peanut MAL and LDP program.

8. Definitions:

- A. **Designated Marketing Association** means an entity, or subsidiary thereof, that performs marketing functions for a marketing association of peanut producers, does not take title to the commodity, and is authorized by CCC to provide and to service CCC peanut MAL's and LDP's for individual producers who have beneficial interest in peanuts.

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- B. **Administrative County Office** means the FSA County Office where a producer's FSA records are maintained.
- C. **DMA Service County Office** means a FSA County Office designated by CCC to accept, process, and disburse peanut MAL's and LDP's to the DMA.

9. Functions to be performed by the DMA

- A. **Functions** - Subject to other provisions of this Agreement, CCC hereby appoints the person or firm named above as a DMA for the purpose of performing certain services requisite to the making and servicing of CCC peanut MAL's and LDP's to eligible producers of eligible peanuts in accordance with the peanut MAL and LDP program carried out by CCC. The DMA may act as CCC's agent for the following purposes:
- (1) preparing and executing CCC peanut MAL and LDP application documents;
 - (2) determining that producers and the commodity are eligible for peanut MAL's and LDP's;
 - (3) determining that eligible peanuts are free and clear of all liens by performing lien searches at DMA expense and, if necessary, obtaining lien waivers;
 - (4) instructing the holder of Electronic Warehouse Receipts (EWR), if applicable, to notify the EWR provider to amend the EWR to show CCC is the holder;
 - (5) receiving CCC funds, as directed by CCC, from either a CCC approved bank or a DMA Service County Office, previously approved by CCC, for the peanut MAL or LDP amounts shown on the MAL documents presented to the bank or DMA Service County Office;
 - (6) disbursing CCC peanut MAL and LDP proceeds to individual producers who have beneficial interest in eligible peanuts;
 - (7) preparing and executing documents for MAL repayments;
 - (8) collecting repayment funds from producers or buyers and transmitting such funds to CCC; transmitting documents to render forfeited collateral to CCC; and collecting data for reporting to CCC as required by CCC.
- B. In performing the above services, the DMA shall further:
- (1) perform such services in accordance with the procedures outlined in the applicable peanut program regulations and notices published in the Federal Register and the Code of Federal Regulations, applicable peanut FSA Handbooks and amendments thereto, and any Notices or instructions issued by the Deputy Administrator for Farm Programs; or Director, Price Support Division (PSD).
 - (2) make and service CCC peanut MAL's and LDP's, only upon presentation of warehouse receipts, (unless otherwise provided by CCC), and grading information by an eligible producer to the DMA;

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- (3) become familiar with the peanut program as set forth in the applicable regulations, notices published in the Federal Register, FSA peanut MAL Handbooks, forms, and other instructions issued relating to the peanut MAL and LDP program;
- (4) attend DMA and peanut MAL and LDP program training offered by CCC at DMA expense; and
- (5) provide sufficient personnel, computer hardware, computer communications systems, and software, as determined necessary by CCC, to administer the peanut MAL and LDP program.

10. CCC shall:

- A. provide producer eligibility and payment limitation data to the DMA that the DMA will use to determine whether the producer is an eligible producer or if the producer will exceed allotted payment limitation; and
- B. make FSA claim, assignment, debt, and other applicable information available to the DMA.

11. Indebted Producers: If the DMA is notified at any time that a producer requesting peanut MAL's or LDP's through the service provided by the DMA is indebted to CCC, is delinquent on other non-tax federal debt, or is otherwise subject to offset by CCC in accordance with the offset regulations of CCC, the DMA shall:

- A. contact CCC for the amount that is owed to CCC and is to be offset from the MAL or LDP proceeds prior to the disbursement of such proceeds; and
- B. prepare a check payable to CCC for the amount collected by offset and forward the check to CCC as directed by CCC.

12. Fees: The DMA may charge the producer requesting a CCC peanuts MAL or LDP a fee for preparation of MAL or LDP documents and for servicing the MAL, at a rate determined by the DMA. Fees shall be deducted from the MAL or LDP amount received by the DMA from CCC before distribution to the producer. Any fees charged by the DMA for making and servicing peanut MAL's or LDP's shall be assessed at the same rate for each producer requesting a CCC peanut MAL or LDP through the service provided by the DMA.**13. Power of Attorney Policy:** Producers may designate the DMA, on form FSA-211 (Power of Attorney), to be the producer's agent for the purpose of executing MAL or LDP documents in order to obtain MAL's or LDP's, repaying peanut MAL's, or marketing peanuts on behalf of the producer. If the DMA is designated by a producer to be the producer's agent for the purpose of executing documents to obtain a peanut MAL or LDP, repaying peanut MAL's on behalf of the producer, or marketing the producer's peanuts, the DMA shall:

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- A. disclose to CCC all facts which the DMA knows or should know would reasonably affect the judgment of CCC in permitting the DMA to act as agent for both CCC and the producer;
- B. include the following language (or equivalent language approved by CCC) as an attachment to each FSA-211 entered into between the DMA and a producer:

"[The producer] hereby acknowledges that [the DMA] is an agent of the Commodity Credit Corporation for the purpose of performing certain services requisite to the making and servicing of Commodity Credit Corporation peanut MAL's and LDP's to eligible producers of eligible peanuts and agrees to permit [the DMA] to act as agent for both [the producer] and the Commodity Credit Corporation. [The DMA] shall disclose to [the producer] all facts which [the DMA] knows or should know would reasonably affect the judgement of [the producer] in permitting [the DMA] to act as agent for both [the producer] and the Commodity Credit Corporation"; and

- C. submit for CCC's approval a sample copy of the FSA-211 and any attachments to be entered into between the DMA and producer.

14. Prohibited Activity: The DMA shall not:

- pool the producer's peanuts for the purpose of obtaining peanut MAL's or LDP's from CCC;
- pool the proceeds obtained from peanut MAL's or LDP's made by CCC;
- make settlement of MAL proceeds with producers on a pool basis;
- take title to any peanuts;
- make farm stored MAL's or LDP's unless authorized by CCC;
- make MAL's or LDP's to producers involved in bankruptcy proceedings unless otherwise authorized by CCC;
- make MAL's or LDP's to ineligible peanut producers or on ineligible peanuts;
- operate the DMA operation under the same entity and tax identification number that is a CCC-approved Cooperative Marketing Association (CMA).

15. Scheme or Device: The DMA will not adopt any scheme or device to circumvent the purpose of the applicable commodity program regulations, the regulation governing DMA's, or this Agreement.

16. Marketing Services: Any charge for marketing services performed by the DMA for a producer requesting CCC peanut MAL's or LDP's through the service provided by the DMA shall be established by the producer and the DMA before execution of a marketing agreement and power of attorney. Any such charge will be assessed at the same rate for all producers for which the DMA performs marketing services.

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17. **Nondiscrimination:** The DMA shall not discriminate against any person because of race, color, religion, sex, national origin, marital status, physical disability, mental disability, or age in conducting activities in accordance with this Agreement. The services of the DMA shall be made available to all eligible producers whether or not such producers have granted the DMA a power of attorney or have designated the DMA as the producer's agent for the purpose of:
- A. executing MAL documents to obtain peanut MAL's, or LDP's
 - B. repaying such peanut MAL's on behalf of the producer; or
 - C. marketing the producer's peanuts.
18. **Financial Security:**
- A. The DMA shall furnish security to CCC in order to guarantee performance. The security shall be either:
 - a certified or cashier's check payable to CCC;
 - an irrevocable commercial letter of credit in the form approved by CCC;
 - a performance or surety bond conditioned on the DMA fully discharging all of its obligations under this Agreement;
 - other form of security, as CCC may deem appropriate.

The amount of the financial security shall be equal to an amount, as determined by CCC, that protects CCC from risk and takes into consideration the DMA's financial condition based upon the financial statements presented to gain initial DMA status and the financial statements presented to maintain DMA status.
 - B. The DMA is liable to CCC for any losses incurred by CCC as a result of the DMA's failure to discharge all of its obligations under this Agreement. Payment in the amount of such losses shall be made to CCC first, from the financial security furnished by DMA, and second, by the DMA if the amount of the loss exceeds the amount of the financial security.
19. **Records Retention:** The DMA shall maintain, according to FSA Handbook 25-AS, for an indefinite period, unless otherwise notified by CCC, all MAL or LDP, current and complete records with respect to executed MAL and LDP documents required by this Agreement.
20. **Field Reviews:** The DMA shall permit CCC or its representatives to examine the books, MAL records, papers, and accounts relating to the activities of the DMA in connection with the making and servicing of CCC peanut MAL's or LDP's any time during normal business hours. Examination and inspections made by CCC or by a Federal, State, or other body authorized by CCC shall, however, in no way relieve the DMA of its obligations under the terms and conditions of this Agreement.
21. **Release of Information:** No information collected or acquired by the DMA in its capacity as agent of CCC shall be released, supplied, or made available, without prior approval of CCC, to any person other than CCC or the person who supplied such information.

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- 22. Maintaining DMA Status:** The DMA shall, within 4 months of the end of the DMA fiscal year, furnish to PSD:
- A. a current and audited financial statement prepared in accordance with generally accepted accounting principles and including the items listed below:
 - balance sheet;
 - income statement (profit and loss statement);
 - cash flow statement;
 - statement of retained earnings;
 - B. a report of audit or review of the financial statement conducted by an independent Certified Public Accountant in accordance with standards established by the American Institute of Certified Public Accountants. The accountant's report of audit or review shall include the accountant's certifications, assurances, opinions, comments and notes with respect to such financial statements; and
 - C. basic DMA data including:
 - any changes to DMA name, contact person name, DMA address, phone number, FAX number, or e-mail addresses;
 - a current list of DMA employees authorized to conduct CCC business;
 - copies of all CCC forms that are computer-generated by the DMA.
- 23. Liability:** The DMA shall hold CCC harmless from any claim made against CCC in connection with any MAL or LDP making, MAL servicing, or other activity carried out by the DMA which is not in accordance with the terms and conditions of this Agreement.
- 24. Termination or Suspension:** Either party may terminate this Agreement at any time upon 30-calendar days written notice to the other party. CCC may terminate this Agreement without providing 30 days notice if CCC determines that the DMA has failed to meet the terms and conditions of this Agreement. Termination of this Agreement by either party is without prejudice to any rights of a party against the other under this Agreement arising from a party's failure to meet the terms and conditions of this Agreement. If the DMA sends a notice of termination to CCC or receives a notice of termination from CCC, the DMA shall immediately cease the execution of MAL or LDP documents. CCC may also suspend the DMA from making new peanut MAL's and LDP's. If the DMA can come into compliance with CCC terms and conditions within a time period established by CCC, the suspension may be lifted.

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